IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
BIG STONE GAP DIVISION

UNITED STATES OF AMERICA	)	
	)	
	)	Case No. 2:00CR10101
	)	
v.	)	**OPINION**
	)	
CLAUDE SLOAN,	)	By: James P. Jones
	)	United States District Judge
Defendant.	)	

Claude Sloan, Pro Se Defendant.

The defendant, proceeding pro se, filed a pleading that he styled as "MOTION FOR ALL WRITS ACT," asserting that his 2001 criminal sentence imposed by this court is unlawful and must be vacated or corrected. The cited authority, the All Writs Act, 28 U.S.C.A. § 1651 (West 2006), does not authorize the requested relief.[1] Therefore, I will deny the defendant's motion under the All Writs Act, construe his submission as a Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C.A. § 2255 (West Supp. 2012), and dismiss it as successive.

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[1] Common law writs under the All Writs Act are not available to a defendant to raise claims that were or could have been raised through other remedies, such as a motion for new trial or a motion to vacate sentence under 28 U.S.C.A. § 2255. *See, e.g., United States v. Johnson*, 237 F.3d 751, 755 (6th Cir. 2001) (writ of coram nobis); *United States v. Valdez-Pacheco*, 237 F.3d 1077, 1080 (9th Cir. 2001) (writ of audita querela). Because the defendant's challenge to the legality of his sentence as imposed could have been raised in a § 2255 motion, the defendant cannot recast the claim as arising under § 1651.

This court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the motion meet certain criteria. See 28 U.S.C.A. § 2255(h). The defendant previously filed a § 2255 motion concerning this same conviction and sentence. *Sloan v. United States*, Case No. 7:03CV00783 (W.D. Va. Apr. 30, 2004), *appeal dismissed*, No. 04-6879 (4th Cir. Sept. 29, 2004). Because the defendant offers no indication that he has obtained certification from the court of appeals to file a second or successive § 2255 motion, I must dismiss his current action without prejudice.

A separate Final Order will be entered herewith.

DATED: July 20, 2012

/s/ James P. Jones
United States District Judge